

HOUSE BILL 813

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P4

2003 Regular Session
3r1630
CF 3r1631

By: **Delegates Barkley, Barve, Benson, Bobo, Carter, C. Davis, Franchot, Frush, Gaines, Hammen, Haynes, Hixson, Holmes, Howard, Jones, Kelly, Kirk, Krysiak, Lee, Malone, Mandel, Marriott, McHale, Menes, Moe, Oaks, Proctor, Rosenberg, Ross, Stern, F. Turner, V. Turner, and Zirkin**

Introduced and read first time: February 7, 2003

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **State Personnel - Collective Bargaining - Service Fees and Binding**
3 **Arbitration**

4 FOR the purpose of authorizing collective bargaining to include the rights of an
5 employee organization to receive service fees from nonmembers; providing that
6 a grievance is subject to binding arbitration; requiring that binding arbitration
7 be conducted if requested by a certain appointing authority or exclusive
8 representative; prescribing the method for selecting an arbitrator; establishing
9 the powers and duties of an arbitrator; providing for the payment of the cost of
10 arbitration; defining a certain term; and generally relating to service fees and
11 binding arbitration.

12 BY repealing and reenacting, with amendments,
13 Article - State Personnel and Pensions
14 Section 3-502
15 Annotated Code of Maryland
16 (1997 Replacement Volume and 2002 Supplement)

17 BY adding to
18 Article - State Personnel and Pensions
19 Section 3-701 through 3-707, inclusive, to be under the new subtitle "Subtitle 7.
20 Binding Arbitration"
21 Annotated Code of Maryland
22 (1997 Replacement Volume and 2002 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - State Personnel and Pensions**

2 3-502.

3 (a) Collective bargaining shall include all matters relating to wages, hours,
4 and other terms and conditions of employment.

5 (b) Collective bargaining may [not] include negotiations relating to the right
6 of an employee organization to receive service fees from nonmembers.

7 (c) Notwithstanding subsection (a) of this section, the representatives of the
8 State, a system institution, Morgan State University, St. Mary's College of Maryland,
9 and Baltimore City Community College:

10 (1) shall not be required to negotiate over any matter that is inconsistent
11 with applicable law; and

12 (2) may negotiate and reach agreement with regard to any such matter
13 only if it is understood that the agreement with respect to such matter cannot become
14 effective unless the applicable law is amended by the General Assembly.

15 **SUBTITLE 7. BINDING ARBITRATION.**

16 3-701.

17 **IN THIS SUBTITLE, "GRIEVANCE" MEANS A DISPUTE REGARDING:**

18 (1) **THE INTERPRETATION OR APPLICATION OF THE TERMS OF A**
19 **MEMORANDUM OF UNDERSTANDING NEGOTIATED AND RATIFIED UNDER THIS**
20 **TITLE;**

21 (2) **AN ALLEGED VIOLATION, MISINTERPRETATION, OR MISAPPLICATION**
22 **OF AN APPOINTING AUTHORITY'S RULES OR REGULATIONS REGARDING A TERM OR**
23 **CONDITION OF EMPLOYMENT; OR**

24 (3) **AN ALLEGED BREACH OR VIOLATION OF A PROVISION OF DIVISION I**
25 **OF THIS ARTICLE.**

26 3-702.

27 (A) **A GRIEVANCE THAT ARISES IN A BARGAINING UNIT WITH AN EXCLUSIVE**
28 **REPRESENTATIVE IS SUBJECT TO BINDING ARBITRATION BEFORE A NEUTRAL**
29 **ARBITRATOR.**

30 (B) **BINDING ARBITRATION SHALL BE CONDUCTED IF REQUESTED BY THE**
31 **APPOINTING AUTHORITY OR THE EXCLUSIVE REPRESENTATIVE OF THE BARGAINING**
32 **UNIT IN WHICH THE GRIEVANCE AROSE.**

1 3-703.

2 THE APPOINTING AUTHORITY AND THE EXCLUSIVE REPRESENTATIVE SHALL
3 SELECT AN ARBITRATOR BY MUTUAL AGREEMENT OR BY ALTERNATING STRIKES
4 FROM A LIST THAT:

5 (1) IS PROVIDED BY THE FEDERAL MEDIATION AND CONCILIATION
6 SERVICE; AND

7 (2) CONSISTS OF NINE LABOR ARBITRATORS WHO ARE MEMBERS OF
8 THE NATIONAL ACADEMY OF ARBITRATORS.

9 3-704.

10 (A) AN ARBITRATOR SELECTED UNDER § 3-703 OF THIS SUBTITLE MAY:

11 (1) CONVENE AND CONDUCT AN EVIDENTIARY HEARING;

12 (2) ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE OF WITNESSES
13 AND THE PRODUCTION OF DOCUMENTS AND OTHER TANGIBLE EVIDENCE;

14 (3) HEAR EVIDENCE AND RULE ON THE ADMISSIBILITY OF EVIDENCE;

15 (4) DETERMINE WHICH ISSUES ARE IN DISPUTE; AND

16 (5) ISSUE A FINAL, BINDING RULING ON THE GRIEVANCE.

17 (B) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER THIS
18 SECTION OR FAILS TO TESTIFY ON A MATTER ON WHICH THE PERSON LAWFULLY
19 MAY BE INTERROGATED, ON PETITION OF THE ARBITRATOR, A COURT MAY:

20 (1) PASS AN ORDER DIRECTING COMPLIANCE WITH THE SUBPOENA OR
21 COMPELLING TESTIMONY; AND

22 (2) ENFORCE THE ORDER BY PROCEEDINGS OF CONTEMPT.

23 3-705.

24 AN ARBITRATOR SHALL DELIVER A COPY OF A RULING AND A WRITTEN
25 STATEMENT THAT EXPLAINS THE REASONS FOR THE RULING TO THE EXCLUSIVE
26 REPRESENTATIVE AND THE APPOINTING AUTHORITY.

27 3-706.

28 THE COSTS OF BINDING ARBITRATION, INCLUDING AN ARBITRATOR'S FEES AND
29 OTHER COSTS RELATED TO A HEARING, CONDUCTED UNDER THIS SUBTITLE SHALL
30 BE PAID EQUALLY BY THE APPOINTING AUTHORITY AND THE EXCLUSIVE
31 REPRESENTATIVE.

1 3-707.

2 A GRIEVANCE PRESENTED TO AN ARBITRATOR FOR BINDING ARBITRATION
3 UNDER THIS SUBTITLE MAY NOT BE PRESENTED UNDER TITLE 12 OF THIS ARTICLE.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2003.